



## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 1187

[212A2100DD / AAKC001030 / A0A501010.999900]

RIN 1076-AF63

#### Indian Business Incubators Program

**AGENCY:** Office of the Assistant Secretary, Indian Affairs, Interior.

**ACTION:** Proposed rule.

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**SUMMARY:** The Office of Indian Energy and Economic Development (IEED) proposes a new regulation to implement the recently enacted Native American Business Incubators Program Act. The Indian Business Incubators Program (IBIP), also known as the Native American Business Incubators Program, is a program in which IEED provides competitive grants to eligible applicants to establish and operate business incubators that serve Tribal reservation communities. These regulations establish who is eligible for the program, how to apply, how IEED will evaluate applications and make awards, and how IEED will administer the program.

**DATES:** Please submit your comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Tribal consultation sessions to discuss this rule will be held on May 12 and 13, 2021, at 1 p.m. ET. Please register in advance using the links provided in the SUPPLEMENTARY INFORMATION section of this document.

**ADDRESSES:** You may submit comments, identified by the number 1076-AF63, by any of the following methods:

- Federal rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [consultation@bia.gov](mailto:consultation@bia.gov). Include the number 1076- AF63 in the subject line of the message.
- Mail or courier: Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, Office of the Assistant Secretary – Indian Affairs, U.S. Department of the Interior, 1849 C Street, NW, Mail Stop 4660, Washington, DC 20240.

We cannot ensure that comments received after the close of the comment period (see DATES) will be included in the docket for this rulemaking and considered.

Comments sent to an address other than those listed above will not be included in the docket for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Comments on the Paperwork Reduction Act information collections contained in this rule are separate from comments on the substance of the rule. Send your comments and suggestions on the information collection requirements to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) (email). Please provide a copy of your comments to [consultation@bia.gov](mailto:consultation@bia.gov).

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, telephone (202) 273-4680, [elizabeth.appel@bia.gov](mailto:elizabeth.appel@bia.gov).

#### **SUPPLEMENTARY INFORMATION:**

- I. Statutory Authority
- II. Need for this Proposed Rulemaking
- III. Overview of Proposed Rule
- IV. Procedural Requirements
  - A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)
  - B. Regulatory Flexibility Act
  - C. Small Business Regulatory Enforcement and Fairness Act
  - D. Unfunded Mandates Reform Act of 1995

- E. Takings (E.O. 12630)
- F. Federalism (E.O. 13132)
- G. Civil Justice Reform (E.O. 12988)
- H. Paperwork Reduction Act
- I. National Environmental Policy Act (NEPA)
- J. Consultation with Indian Tribes (E.O. 13175)
- K. Energy Effects (E.O. 13211)
- L. Clarity of this Regulation
- M. Public Availability of Comments

## **I. Statutory Authority**

IEED is proposing this rule under the authority of the Native American Business Incubators Program Act, Public Law 116-174.

## **II. Need for This Proposed Rulemaking**

On October 20, 2020, Congress enacted the Native American Business Incubators Program Act, Pub. L. 116-174, which will be codified at 25 U.S.C. 5801 *et seq.* In the Act, Congress establishes the Native American Business Incubators Program. Congress found that, in addition to the challenges all entrepreneurs face when transforming ideas into profitable business enterprises, entrepreneurs face an additional set of challenges that requires special knowledge when they want to provide products and services in Tribal reservation communities. Congress further found that the business incubator model is suited to accelerating entrepreneurship in Tribal reservation communities, promoting collaboration to address challenges and providing individually tailored services to overcome the obstacles that are unique to each participating business, ultimately stimulating economic development in reservation communities. Business incubators accelerate the creation and development of businesses by offering a range of services to business owners such as: mentorships, networking, technical assistance, and access to investors. In accordance with the Act's requirement for promulgation of regulations within 180 days of the Act's enactment (i.e., by April 18, 2021), IEED is publishing today's proposed rule for notice and comment.

## **III. Overview of Proposed Rule**

This proposed rule would establish the IBIP, in accordance with the Native American Business Incubators Program Act. Through the IBIP, IEED will provide competitive grants to eligible applicants to establish and operate business incubators that serve entrepreneurs (start-up and early stage businesses) who will provide products or services to Tribal reservation communities. A business incubator is an organization that assists entrepreneurs in becoming viable businesses by providing advice and services to entrepreneurs to navigate obstacles in transforming their innovative ideas into operational businesses. Examples of services that a business incubator may provide are workspace and facilities, advice on how to access capital, business education, counseling, and networking and mentorship opportunities. Indian Affairs does not currently have any regulations in place that provide for a grant program for Indian business incubators. These regulations are intended to provide the framework for operation of the grant program so that there is certainty as to who is eligible for a grant, how eligible applicants can apply for a grant, how IEED will evaluate, award, and administer the grants, and what terms and conditions will apply to the grants. The ultimate goal of providing this regulatory framework is to enable IEED to provide grants under these regulations that will stimulate economic development in reservation communities. IEED welcomes input on any proposed regulatory provision that may undermine this goal.

The proposed rule consists of six subparts, each of which is described below.

- Subpart A – General Provisions and Eligibility: Defines terms defined in the statute consistent with the statutory definitions, replacing citations with restatements of the provisions cited where appropriate, and adds a new term for “IBIP” in lieu of “Native American Business Incubator Program (NABIP)” to avoid confusion because the acronym “NABIP” is similar to other grant programs. This subpart also describes who is eligible to receive an IBIP grant, to

include the following entities that meet certain additional requirements set out in § 1187.3:

- Tribes;
  - Tribal colleges and universities;
  - Institutions of higher education; and
  - Tribal or private nonprofit organizations that provide business and financial technical assistance.
- Subpart B – Applying for a Grant: Describes how an eligible applicant applies for a grant, adding the specificity that applications must be submitted through [www.grants.gov](http://www.grants.gov). This subpart also includes the statutory requirements for what must be included in an application and written site proposal, and how to submit a joint application. The regulations add that joint applications must identify which of the entities submitting the joint application will be the lead contact for the purposes of grant management.
- Subpart C – Evaluation of Grant Applications: Describes the criteria IEED will use to evaluate each IBIP grant application, adding the specific time period of three months to the statutory requirement that the applicant must commence services within a minimum period of time to be determined by the Secretary. This subpart also adds a new criterion to the statutory criteria for evaluation: the extent to which a grant award will enable an entity that is already providing business incubation services to appreciably enhance those services. IEED added this criterion in order to ensure that the grant is funding new incubation services, such that there is a return for the investment made in the incubator, rather than merely paying existing incubators for services they would have otherwise provided.

- Subpart D – Grant Awards: Describes how IEED will disburse grant funds to awardees according to the statute. This subpart also includes the statutory prohibition on awarding an IBIP grant that duplicates other Federal funding, but adds a clarification that duplicative funding means any funding from other Federal grants that would overlap with the IBIP grant for the same activities described in the applicant’s IBIP proposal.
- Subpart E – Grant Term and Conditions: Establishes an initial grant term of three years, with the opportunity to renew for one additional three-year term if certain conditions are met, in accordance with the statute. This subpart also lists the purposes for which awardees may use the grant funds, requires awardees to provide non-Federal contributions in an amount at least 25 percent of the grant unless the conditions for waiver of that requirement are met, lists the minimum requirements awardees must meet in providing incubation services, and requires the awardee to submit a report at the end of the grant year that provides, among other things, a detailed breakdown of the Native businesses and Native entrepreneurs the incubator helped establish or serve. These items are all statutory but are included in the regulation to assist readers in finding all relevant IBIP grant information in one location.
- Subpart F – IEED Grant Administration: Provides that IEED will conduct an annual evaluation of each IBIP awardee’s success, facilitate relationships between awardees and educational institutions serving Native American communities, and collaborate with other Federal agencies that administer business and entrepreneurial programs. These items are also all statutory but are included in the regulation to assist readers in finding all relevant IBIP grant information in one location.

IEED seeks comment, particularly from Tribes and potentially eligible IBIP applicants, on any changes to the regulation within the bounds of the statute that could be incorporated to help ensure the success of this newly established program.

#### **IV. Procedural Requirements**

##### **A. Regulatory Planning and Review (E.O. 12866, 13563)**

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

##### **B. The Regulatory Flexibility Act**

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule establishes a program to provide grants for business incubators, some of which may be small entities, but the \$5 million in total annual appropriations is not expected to reach the threshold of having a significant economic effect on a substantial number of small entities.

##### **C. Small Business Regulatory Enforcement Fairness Act of 1996**

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business

Regulatory Enforcement Fairness Act. Because this proposed rule establishes a program supported by \$5 million in annual appropriations this rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### **D. Unfunded Mandates Reform Act of 1995**

This proposed rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. The proposed rule does not have a monetarily significant or unique effect on State, local, or Tribal governments or the private sector. This proposed rule would establish a program to provide grants to certain business incubators that will serve Tribal communities. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

#### **E. Takings (E.O. 12630)**

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this proposed rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable "taking." A takings implication assessment is not required.

#### **F. Federalism (E.O. 13132)**

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

#### **G. Civil Justice Reform (E.O. 12988)**



This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### **H. Consultation with Indian Tribes (E.O. 13175)**

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has substantial direct effects on federally recognized Indian Tribes because the rule requires early tribal involvement in the design of a process that will have significant impact on one or more recognized tribes.

Given the statutory deadline of April 2021 for promulgating a regulation, IEED did not have sufficient time to formally consult on the development of this proposed rule, but has scheduled the following Tribal consultation sessions by webinar to discuss this proposed rule:

- May 12, 2021, 1 p.m. – 3 p.m. ET – please register for this session at:  
<https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e77ad54c5178e4cff380d118dcc83c2f>
- May 13, 2021, 1 p.m. – 3 p.m. ET – please register for this session at:  
<https://doilearn2.webex.com/doilearn2/onstage/g.php?MTID=e1e488228146c27c782cd83cb83b9478b>

#### **I. Paperwork Reduction Act**

This proposed rule contains new information collections. All information

collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The Department is seeking approval of a new information collection, as follows.

Brief Description of Collection: This information collection includes items that an applicant must include in an application for an Indian Business Incubator Program (IBIP) grant and that IBIP awardees must include in the annual report. Applicant contents include such items as a description of the reservation communities the incubator will serve, a three-year plan regarding the services to be offered to participating entrepreneurs, among other items, information regarding applicant's experience in conducting assistance programs, and a site description of the location at which the applicant will provide work space to participants, among other items. The annual report includes a detailed breakdown of the entrepreneurs the incubator has served for the year covered by the report.

Title: Indian Business Incubator Program (IBIP).

OMB Control Number: 1076–NEW.

Form Number: None.

Type of Review: New collection.

Respondents/Affected Public: Individuals, Private Sector, Government.

Total Estimated Number of Annual Respondents: 50.

Total Estimated Number of Annual Responses: 100.

Estimated Completion Time per Response: Ranges from 5 to 35 hours.

Total Estimated Number of Annual Burden Hours: 2,000 hours.

Respondents' Obligation: Required to obtain a benefit.

Frequency of Response: Occasionally.

Total Estimated Annual Non-Hour Burden Cost: \$0.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Please provide a copy of your comments to [consultation@bia.gov](mailto:consultation@bia.gov).

Please reference OMB Control Number 1076-NEW in the subject line of your comments.

## **J. National Environmental Policy Act**

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because this is an administrative and procedural regulation. (For further information see 43 CFR 46.210(i)).

We have also determined that this proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

#### **K. Effects on the Energy Supply (E.O. 13211)**

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

#### **L. Clarity of this Regulation**

We are required by Executive Orders 12866 (section 1(b)(12)), and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each proposed rule we publish must:

- a) Be logically organized;
- b) Use the active voice to address readers directly;
- c) Use clear language rather than jargon;
- d) Be divided into short sections and sentences; and,
- e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the "ADDRESSES" section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

#### **M. Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so.

### **List of Subjects in 25 CFR Part 1187**

Indians-business and finance, Loan programs – business, Loan programs-Indians, Reporting and recordkeeping requirements.

For the reasons given in the preamble, the Department of the Interior proposes to amend Chapter VI of Title 25 of the Code of Federal Regulations by adding part 1187 to read as follows:

## **PART 1187 – INDIAN BUSINESS INCUBATORS PROGRAM**

### **Subpart A – General Provisions and Eligibility**

Sec.

- 1187.1 What is the Indian Business Incubators Program (IBIP)?
- 1187.2 What terms do I need to know?
- 1187.3 Who is eligible to receive a grant under the IBIP?

### **Subpart B – Applying for a Grant**

- 1187.10 How does an eligible applicant apply for a grant under the IBIP?
- 1187.11 What must an application include?
- 1187.12 What must an applicant include in a written site proposal?
- 1187.13 May applicants submit a joint application?
- 1187.14 What additional items must a joint application include?

### **Subpart C – Evaluation of Grant Applications**

- 1187.20 How will IEED evaluate each application?
- 1187.21 How will IEED evaluate the proposed location of the business incubator?
- 1187.22 How will IEED conduct the site evaluation?

### **Subpart D – Grant Awards**

- 1187.30 How will IEED disburse the grant funds to awardees?
- 1187.31 May IEED award a grant that is duplicative of Federal funding from another source?

### **Subpart E – Grant Term and Conditions**

- 1187.40 How long is the grant term?
- 1187.41 May IEED renew a grant award?
- 1187.42 What may awardees use grant funds for?
- 1187.43 May IEED waive the requirement for the non-Federal contribution?
- 1187.44 What minimum requirements must awardees meet?
- 1187.45 What reports must the awardee submit?

### **Subpart F – IEED Grant Administration**

- 1187.50 How will IEED evaluate awardees' performance?
- 1187.51 Will IEED facilitate relationships between awardees and educational institutions serving Native American communities?
- 1187.52 How will IEED coordinate with other Federal agencies?

**Authority:** 25 U.S.C. 2, 9; Pub. L. 116-174.

## **Subpart A – General Provisions and Eligibility**

### **§ 1187.1 What is the Indian Business Incubators Program (IBIP)?**

The Indian Business Incubators Program (IBIP) is a program under the Native American Business Incubators Program Act in which IEED provides competitive grants to eligible applicants to establish and operate business incubators that serve Tribal reservation communities. With these grants, business incubators will:

(a) Provide individually tailored business incubation and other business services to Native businesses and Native entrepreneurs to overcome the unique obstacles they confront; and

(b) Provide Native businesses and Native entrepreneurs with the tools necessary to start and grow businesses that offer products and services to reservation communities.

### **§ 1187.2 What terms do I need to know?**

*Awardee* means an eligible applicant receiving a grant under the IBIP.

*Business incubator* means an organization that:

- (1) Provides physical workspace and facilities resources to startups and established businesses; and
- (2) Is designed to accelerate the growth and success of businesses through a variety of business support resources and services, including--
  - (i) Business education, counseling, and advice regarding access to capital;
  - (ii) Networking opportunities;
  - (iii) Mentorship opportunities; and
  - (iv) Other services intended to aid in developing a business.

*Eligible applicant* means an applicant eligible to apply for a grant under § 1187.3.

*IBIP* means the Indian Business Incubator Program (IBIP) under the Native American Business Incubator Program Act.

*IEED* means the Office of Indian Energy and Economic Development in the Office of the Assistant Secretary – Indian Affairs.

*Indian Tribe* has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

*Institution of higher education* means an educational institution in any State that—

- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of 20 U.S.C. 1091(d);
- (2) Is legally authorized within such State to provide a program of education beyond secondary education;
- (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;
- (4) Is a public or other nonprofit institution; and
- (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

*Native American; Native* means a person who is a member of an Indian Tribe, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(d)).

*Native business* means a business concern that is at least 51-percent owned and controlled by 1 or more Native Americans.

*Native entrepreneur* means an entrepreneur who is a Native American.

*Reservation* means Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

*Secretary* means the Secretary of the Interior.

*Tribal college or university* means an institution that—

- (1) Qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a note); or
- (2) Is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

### **§ 1187.3 Who is eligible to receive a grant under the IBIP?**

To be eligible to receive a grant under the IBIP, an applicant must:

- (a) Be able to provide the physical workspace, equipment, and connectivity necessary for Native businesses and Native entrepreneurs to collaborate and conduct business on a local, regional, national, and international level; and
- (b) Be one of the following entities:
  - (1) An Indian Tribe;
  - (2) A Tribal college or university that will have been operational for not less than one year before receiving a grant under the IBIP;
  - (3) An institution of higher education that will have been operational for not less than one year before receiving a grant under the IBIP; or



(4) A Tribal or private nonprofit organization that provides business and financial technical assistance and:

(i) Will have been operational for not less than one year before receiving a grant under the IBIP; and

(ii) Commits to serving one or more reservation communities.

### **Subpart B – Applying for a Grant**

#### **§ 1187.10 How does an eligible applicant apply for a grant under the IBIP?**

Each eligible applicant desiring a grant under the IBIP must submit to the Secretary an application as described in the solicitation posted on [www.grants.gov](http://www.grants.gov).

#### **§ 1187.11 What must an application include?**

An application for a grant under the IBIP must include:

(a) A certification that the applicant:

(1) Is an eligible applicant;

(2) Has or will designate an executive director or program manager to manage the business incubator; and

(3) Agrees to:

(i) A site evaluation by the Secretary as part of the final selection process;

(ii) An annual programmatic and financial examination for the duration of the grant; and

(iii) To the maximum extent practicable, to remedy any problems identified pursuant to the site evaluation and examination.

(b) A description of the one or more reservation communities to be served by the business incubator;

(c) A three-year plan that describes:

(1) The number of Native businesses and Native entrepreneurs to be participating in the business incubator;

(2) Whether the business incubator will focus on a particular type of business or industry;

(3) A detailed breakdown of the services to be offered to Native businesses and Native entrepreneurs participating in the business incubator; and

(4) A detailed breakdown of the services, if any, to be offered to Native businesses and Native entrepreneurs not participating in the business incubator;

(d) Information demonstrating the effectiveness and experience of the eligible applicant in:

(1) Conducting financial, management, and marketing assistance programs designed to educate or improve the business skills of current or prospective businesses;

(2) Working in and providing services to Native American communities;

(3) Providing assistance to entities conducting business in reservation communities;

(4) Providing technical assistance under Federal business and entrepreneurial development programs for which Native businesses and Native entrepreneurs are eligible; and

(5) Managing finances and staff effectively;

(e) A description of the applicant's non-Federal contributions, in an amount equal to not less than 25 percent of the grant amount requested; and

(f) A site description of the location at which the eligible applicant will provide physical workspace, including a description of the technologies, equipment, and other resources that will be available to Native businesses and Native entrepreneurs participating in the business incubator, if the applicant is in possession of the site, or a written site proposal containing the information in § 1187.12, if the applicant is not yet in possession of the site.

### **§ 1187.12 What must an applicant include in a written site proposal?**

If the applicant is not yet in possession of the site, the applicant must submit a written site proposal with their application that contains:

(a) Sufficient detail for the Secretary to ensure, in the absence of a site visit or video submission, that the proposed site will permit the eligible applicant to meet the requirements of the IBIP; and

(b) A timeline describing when the eligible applicant will be:

(1) In possession of the proposed site; and

(2) Operating the business incubator at the proposed site.

### **§ 1187.13 May applicants submit a joint application?**

Two or more eligible entities may submit a joint application for a project that combines the resources and expertise of those entities at a physical location dedicated to assisting Native businesses and Native entrepreneurs under the IBIP.

### **§ 1187.14 What additional items must a joint application include?**

A joint application must:

(a) Contain a certification that each participant of the joint project is an eligible entity under § 1187.3;

(b) Demonstrate that together the participants meet the requirements of § 1187.13; and

(c) Identify which of the entities submitting the joint application will be the lead contact for the purposes of grant management.

## **Subpart C – Evaluation and Award of Grant Applications**

### **§ 1187.20 How will IEED evaluate each application?**

In evaluating each application, IEED will consider:

(a) The ability of the eligible applicant to:

- (1) Operate a business incubator that effectively imparts entrepreneurship and business skills to Native businesses and Native entrepreneurs, as demonstrated by the experience and qualifications of the eligible applicant;
  - (2) Commence providing services within three months; and
  - (3) Provide quality incubation services to a significant number of Native businesses and Native entrepreneurs or provide such services at geographically remote locations where quality business guidance and counseling is difficult to obtain;
- (b) The experience of the eligible applicant in providing services in Native American communities, including in the one or more reservation communities described in the application;
- (c) The proposed location of the business incubator; and
- (d) The extent to which a grant award will enable an entity that is already providing business incubation services to appreciably enhance those services.

**§ 1187.21 How will IEED evaluate the proposed location of the business incubator?**

In evaluating the proposed location of the business incubator, IEED will:

- (a) Consider the program goal of achieving broad geographic distribution of business incubators; and
- (b) Give priority to eligible applicants that will provide business incubation services on or near the reservation of the one or more communities that were described in the application, except that IEED may give priority to an eligible applicant that is not located on or near the reservation of the one or more communities that were described in the application if IEED determines that:
  - (1) The location of the business incubator will not prevent the eligible applicant from providing quality business incubation services to Native businesses and

Native entrepreneurs from the one or more reservation communities to be served;  
and

(2) Siting the business incubator in the identified location will serve the interests of the one or more reservation communities to be served.

**§ 1187.22 How will IEED conduct the site evaluation?**

(a) Before awarding a grant to an eligible applicant, IEED will conduct an evaluation of the proposed site to verify that the applicant has (or will have) the physical workspace, equipment, and connectivity necessary for Native businesses and Native entrepreneurs to collaborate and conduct business on a local, regional, national, and/or international level.

(b) To determine whether the site meets the requirements of paragraph (a) of this section:

(1) If the applicant is in possession of the proposed site, IEED will conduct an on-site visit or review a video submission before awarding the grant.

(2) If the applicant is not yet in possession of the proposed site and has submitted a written site proposal, IEED will review the written site proposal before awarding the grant and will conduct an on-site visit or review a video submission to ensure the site is consistent with the written site proposal no later than one year after awarding the grant. If IEED determines the site is not consistent with the written site proposal, IEED will use that information in determining the ongoing eligibility of the applicant under § 1187.50.

**Subpart D – Grant Awards**

**§ 1187.30 How will IEED disburse the grant funds to awardees?**

IEED will disburse grant funds awarded to eligible applicants in annual installments except that, IEED may make disbursements more frequently, on request by the applicant, as long as disbursements are not made more frequently than quarterly.

**§ 1187.31 May IEED award a grant that is duplicative of Federal funding from another source?**

IEED may not award a grant under the IBIP that is duplicative of existing Federal funding from another source. Duplicative funding means any funding from other Federal grants that would overlap with the IBIP grant for the same activities described in the applicant's IBIP proposal.

**Subpart E – Grant Term and Conditions**

**§ 1187.40 How long is the grant term?**

Each grant awarded under the IBIP is for a term of three years.

**§ 1187.41 May IEED renew a grant award?**

(a) IEED may renew a grant award under the IBIP for one additional three-year term.

In determining whether to renew a grant award, IEED will consider for the awardee:

- (1) The results of the annual evaluation of the awardee conducted under § 1187.50;
- (2) The performance of the awardee's business incubator, as compared to the performance of other business incubators receiving grants under the IBIP;
- (3) Whether the awardee continues to be eligible for the IBIP; and
- (4) The evaluation consideration for initial awards under § 1187.20.

(b) Awardees that receive a grant renewal must provide non-Federal contributions in an amount not less than 33 percent of the total amount of the grant. Failure to provide the non-Federal contribution will result in noncompliance and IEED withholding of funds, unless IEED waives the requirement under § 1187.43.

**§ 1187.42 What may awardees use grant funds for?**

An awardee may use grant amounts for any or all of the following purposes:

- (a) To provide physical workspace and facilities for Native businesses and Native entrepreneurs participating in the business incubator;

(b) To establish partnerships with other institutions and entities to provide comprehensive business incubation services to Native businesses and Native entrepreneurs participating in the business incubator; and

(c) For any other uses typically associated with business incubators that IEED determines to be appropriate and consistent with the purposes of the IBIP.

**§ 1187.43 May IEED waive the requirement for the non-Federal contribution?**

IEED may waive the requirement for the non-Federal contribution, in whole or in part, for one or more years of the initial IBIP grant award if IEED determines that the waiver is appropriate based on:

(a) The awardee's ability to provide non-Federal contributions;

(b) The quality of business incubation services; and

(c) The likelihood that one or more reservation communities served by the awardee will not receive similar services elsewhere because of the remoteness or other reasons that inhibit the provision of business and entrepreneurial development services.

**§ 1187.44 What minimum requirements must awardees meet?**

(a) Each awardee must:

(1) Offer culturally tailored incubation services to Native businesses and Native entrepreneurs;

(2) Use a competitive process for selecting Native businesses and Native entrepreneurs to participate in the business incubator; however, awardees may still offer technical assistance and advice to Native businesses and Native entrepreneurs on a walk-in basis;

(3) Provide physical workspace that permits Native businesses and Native entrepreneurs to conduct business and collaborate with other Native businesses and Native entrepreneurs;

(4) Provide entrepreneurship and business skills training and education to Native businesses and Native entrepreneurs including:

(i) Financial education, including training and counseling in:

(A) Applying for and securing business credit and investment capital;

(B) Preparing and presenting financial statements; and

(C) Managing cash flow and other financial operations of a business;

(ii) Management education, including training and counseling in planning, organization, staffing, directing, and controlling each major activity or function of a business or startup; and

(iii) Marketing education, including training and counseling in:

(A) Identifying and segmenting domestic and international market opportunities;

(B) Preparing and executing marketing plans;

(C) Locating contract opportunities;

(D) Negotiating contracts; and

(E) Using varying public relations and advertising techniques.

(5) Provide direct mentorship or assistance finding mentors in the industry in which the Native business or Native entrepreneur operates or intends to operate; and

(6) Provide access to networks of potential investors, professionals in the same or similar fields, and other business owners with similar businesses.

(b) Each awardee must leverage technology to the maximum extent practicable to provide Native businesses and Native entrepreneurs with access to the connectivity tools needed to compete and thrive in 21st-century markets.

**§ 1187.45 What reports must the awardee submit?**



(a) Not later than one year after the date IEED awards the grant, and then annually for the duration of the grant, the awardee must submit to IEED a report describing the services the awardee provided under the IBIP during the preceding year, including:

(1) A detailed breakdown of the Native businesses and Native entrepreneurs receiving services from the business incubator, including, for the year covered by the report:

(i) The number of Native businesses and Native entrepreneurs participating in or receiving services from the business incubator and the types of services provided to those Native businesses and Native entrepreneurs;

(ii) The number of Native businesses and Native entrepreneurs established and jobs created or maintained; and

(iii) The performance of Native businesses and Native entrepreneurs while participating in the business incubator and after graduation or departure from the business incubator; and

(2) Any other information the Secretary may require to evaluate the performance of a business incubator to ensure appropriate implementation of the IBIP.

(b) To the maximum extent practicable, IEED will not require an awardee to report the information listed in paragraph (a) of this section that the awardee provides to IEED under another program.

(c) IEED will coordinate with the heads of other Federal agencies to ensure that, to the maximum extent practicable, the report content and form under paragraph (a) of this section are consistent with other reporting requirements for Federal programs that provide business and entrepreneurial assistance.

#### **Subpart F –IEED Grant Administration**

##### **§ 1187.50 How will IEED evaluate awardees' performance?**

Not later than one year after the date on which IEED awards a grant to an eligible applicant under the IBIP, and annually thereafter for the duration of the grant, IEED will conduct an evaluation of, and prepare a report on, the awardee, which will:

- (a) Describe the performance of the eligible applicant; and
- (b) Be used in determining the ongoing eligibility of the eligible applicant.

**§ 1187.51 Will IEED facilitate relationships between awardees and educational institutions serving Native American communities?**

IEED will facilitate the relationships between awardees and educational institutions serving Native American communities, including Tribal colleges and universities.

**§ 1187.52 How will IEED coordinate with other Federal agencies?**

IEED will coordinate with the Secretaries of Agriculture, Commerce, and Treasury, and the Administrator of the Small Business Administration to ensure, to the maximum extent practicable, that awardees have the information and materials they need to provide Native businesses and Native entrepreneurs with the information and assistance necessary to apply for business and entrepreneurial development programs administered by those agencies.

*Bryan Newland,*  
**Principal Deputy Assistant Secretary – Indian Affairs.**